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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

UNICOLORS, INC., a California  
Corporation,

Plaintiff,

vs.

LEONARD A. FEINBERG, INC., a  
Pennsylvania Corporation, individually  
and d/b/a “FEATHERS” and “MISTER  
NOAH”; BOSCOV’S DEPARTMENT  
STORE, INC., a Pennsylvania  
Corporation; and DOES 1 through 10,

Defendants.

Case No.:

PLAINTIFF’S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR  
CONTRIBUTORY COPYRIGHT  
INFRINGEMENT

Jury Trial Demanded

Plaintiff, UNICOLORS, INC. (hereinafter “UNICOLORS”), by and through its undersigned attorneys, hereby prays to this honorable Court for relief based on the following:



1 printed with Plaintiff's copyrighted designs (as hereinafter defined) without  
2 Plaintiff's knowledge or consent or have contributed to said infringement. The true  
3 names, whether corporate, individual or otherwise of Defendants DOES 1-5,  
4 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants  
5 by such fictitious names and will seek leave to amend this complaint to show their  
6 true names and capacities when same have been ascertained.

7 8. Defendants DOES 6 through 10, inclusive, are other parties not yet  
8 identified who have infringed Plaintiff's copyrights, have contributed to the  
9 infringement of Plaintiff's copyrights, or have engaged in one or more of the  
10 wrongful practices alleged herein. The true names, whether corporate, individual or  
11 otherwise, of Defendants DOES 6 through 10, inclusive, are presently unknown to  
12 Plaintiff, which therefore sues said Defendants by such fictitious names, and will  
13 seek leave to amend this Complaint to show their true names and capacities when  
14 same have been ascertained.

15 9. Plaintiff is informed and believes and thereon alleges that at all times  
16 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
17 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
18 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
19 and/or employment; and actively participated in or subsequently ratified and  
20 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of  
21 all the facts and circumstances, including, but not limited to, full knowledge of each  
22 and every violation of Plaintiff's rights and the damages to Plaintiff proximately  
23 caused thereby.

24 **CLAIMS RELATED TO DESIGN GS435**

25 10. Prior to the conduct complained of herein, Plaintiff composed an original  
26 two-dimensional artwork for purposes of textile printing. It allocated this design the  
27 name GS435 (hereinafter "Subject Design"). This artwork was a creation of Plaintiff  
28

1 and Plaintiff's design team, and is, and at all relevant times, was owned exclusively  
2 by Plaintiff.

3 11. Plaintiff applied for and received a United States Copyright Registration  
4 for the Subject Design. The Subject Design was granted Registration No. VA 1-682-  
5 481, with an effective date of April 7, 2009.

6 12. Prior to the acts complained of herein, Plaintiff sampled and sold fabric  
7 bearing Subject Design to numerous parties in the fashion and apparel industries.

8 13. Following this distribution of product bearing the Subject Design,  
9 Plaintiff's investigation revealed that certain entities within the fashion and apparel  
10 industries had misappropriated the Subject Design, and were selling fabric and  
11 garments bearing illegal reproductions and derivations of the Subject Design.

12 14. Plaintiff is informed and believes and thereon alleges that, following this  
13 distribution of fabric bearing Subject Design, FEATHERS, BOSCOV'S, and certain  
14 DOE Defendants created, sold, manufactured, caused to be manufactured, imported  
15 and/or distributed fabric and/or garments comprised of fabric bearing an  
16 unauthorized reproduction of Subject Design ("Subject Product"). Such Subject  
17 Product includes but is not limited to:

- 18 a. Garments sold at BOSCOV'S under, inter alia, SKU or Item No.  
19 10891043161. Such Subject Product bore the label "Feathers,"  
20 indicating said garments were manufactured by, caused to be  
21 manufactured by, or supplied by FEINBERG. It is apparent from a  
22 comparison of the Subject Design and Infringing Garment A that the  
23 elements, composition, colors, arrangement, layout, and appearance  
24 of the designs are substantially similar. See below for a comparison  
25 of one such Subject Product and the Subject Design:  
26  
27  
28

Subject Design



Infringing Garment A



- b. Garments sold at BOSCOV'S under, inter alia, SKU 611971308608 and Style Number 905531. Such Subject Product bore the RN 50110 indicating said garments were manufactured by, caused to be manufactured by, or supplied by FEINBERG. It is apparent from a comparison of the Subject Design and Infringing Garment A that the elements, composition, colors, arrangement, layout, and appearance of the designs are substantially similar. See below for a comparison of one such Subject Product and the Subject Design:

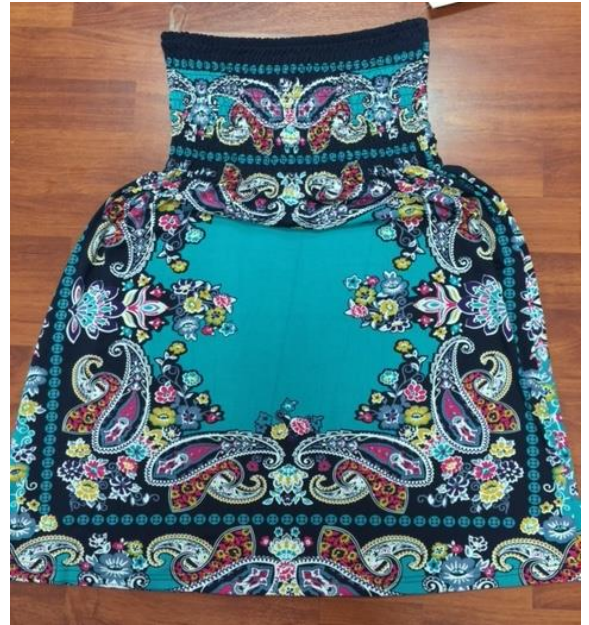
///



Subject Design



Infringing Garment B



**FIRST CLAIM FOR RELIEF**

(For Copyright Infringement – Against All Defendants, and Each)

15. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Design by Plaintiff for its customers.

1           17. Plaintiff is informed and believes and thereon alleges that one or more of  
2 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is  
3 further informed and believes and thereon alleges that said Defendant(s) has an  
4 ongoing business relationship with Defendant retailer, and each of them, and  
5 supplied garments to said retailer, which garments infringed the Subject Design in  
6 that said garments were composed of fabric which featured unauthorized print  
7 design(s) that were identical or substantially similar to the Subject Design, or were  
8 an illegal derivation or modification thereof.

9           18. Plaintiff is informed and believes and thereon alleges that Defendants, and  
10 each of them, infringed Plaintiff's copyrights by creating, making, and/or developing  
11 directly infringing and/or derivative works from the Subject Design and by  
12 producing, distributing and/or selling garments which infringe the Subject Design  
13 through a nationwide network of retail stores, catalogues, and through on-line  
14 websites.

15           19. Due to Defendants' acts of infringement, Plaintiff has suffered substantial  
16 damages to its business in an amount to be established at trial.

17           20. Due to Defendants' acts of infringement, Plaintiff has suffered general and  
18 special damages in an amount to be established at trial.

19           21. Due to Defendants' acts of copyright infringement as alleged herein,  
20 Defendants, and each of them, have obtained direct and indirect profits they would  
21 not otherwise have realized but for their infringement of the Subject Design. As  
22 such, Plaintiff is entitled to disgorgement of Defendant's profits directly and  
23 indirectly attributable to Defendant's infringement of the Subject Design in an  
24 amount to be established at trial.

25           22. Plaintiff is informed and believes and thereon alleges that Defendants, and  
26 each of them, have committed acts of copyright infringement, as alleged above,  
27 which were willful, intentional and malicious, which further subjects Defendants,  
28

1 and each of them, to liability for statutory damages under Section 504(c)(2) of the  
2 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)  
3 per infringement. Within the time permitted by law, Plaintiff will make its election  
4 between actual damages and statutory damages.

5 **SECOND CLAIM FOR RELIEF**

6 (For Vicarious and/or Contributory Copyright Infringement - Against All  
7 Defendants)

8 23. Plaintiff repeats, realleges, and incorporates herein by reference as though  
9 fully set forth, the allegations contained in the preceding paragraphs of this  
10 Complaint.

11 24. Plaintiff is informed and believes and thereon alleges that Defendants  
12 knowingly induced, participated in, aided and abetted in and profited from the illegal  
13 reproduction and/or subsequent sales of garments featuring the Subject Design as  
14 alleged herein.

15 25. Plaintiff is informed and believes and thereon alleges that Defendants, and  
16 each of them, are vicariously liable for the infringement alleged herein because they  
17 had the right and ability to supervise the infringing conduct and because they had a  
18 direct financial interest in the infringing conduct.

19 26. By reason of the Defendants', and each of their acts of contributory and  
20 vicarious infringement as alleged above, Plaintiff has suffered and will continue to  
21 suffer substantial damages to its business in an amount to be established at trial, as  
22 well as additional general and special damages in an amount to be established at  
23 trial.

24 27. Due to Defendants', and each of their acts of copyright infringement as  
25 alleged herein, Defendants, and each of them, have obtained direct and indirect  
26 profits they would not otherwise have realized but for their infringement of the  
27 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits



1 directly and indirectly attributable to Defendants' infringement of the Subject  
2 Design, in an amount to be established at trial.

3 28. Plaintiff is informed and believes and thereon alleges that Defendants, and  
4 each of them, have committed acts of copyright infringement, as alleged above,  
5 which were willful, intentional and malicious, which further subjects Defendants,  
6 and each of them, to liability for statutory damages under Section 504(c)(2) of the  
7 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)  
8 per infringement. Within the time permitted by law, Plaintiff will make its election  
9 between actual damages and statutory damages.

10 **PRAYER FOR RELIEF**

11 Wherefore, Plaintiff prays for judgment as follows:

12 **Against All Defendants**

13 **With Respect to Each Claim for Relief**

- 14 a. That Defendants, their agents and employees be enjoined from  
15 infringing Plaintiff's copyrights in any manner, specifically those for the  
16 Subject Design;
- 17 b. That Plaintiff be awarded all profits of Defendants plus all losses of  
18 Plaintiff, plus any other monetary advantage gained by the Defendants  
19 through their infringement, the exact sum to be proven at the time of  
20 trial, or, if elected before final judgment, statutory damages as available  
21 under the Copyright Act, 17 U.S.C. § 101 et seq.;
- 22 c. That a trust be imposed over the revenues derived by Defendants, and  
23 each of them, through the sales or distribution of the product at issue;
- 24 d. That Plaintiff be awarded its attorneys' fees as available under the  
25 Copyright Act U.S.C. § 101 et seq.;
- 26  
27  
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- 1 e. That Defendants, and each of them, account to Plaintiff for their profits  
2 and any damages sustained by Plaintiff arising from the foregoing acts  
3 of infringement;  
4 f. That Plaintiff be awarded pre-judgment interest as allowed by law;  
5 g. That Plaintiff be awarded the costs of this action; and  
6 h. That Plaintiff be awarded such further legal and equitable relief as the  
7 Court deems proper.

8 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
9 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

10  
11 Respectfully submitted,

12  
13 Dated: February 11, 2016

14 By: /s/ Scott Alan Burroughs  
15 Scott Alan Burroughs, Esq.  
16 Trevor W. Barrett, Esq.  
17 Justin M. Gomes, Esq.  
18 DONIGER / BURROUGHS  
19 Attorneys for Plaintiff  
20 UNICOLORS, INC.  
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